

The Nassau County Zoning Code was created via Ordinance 74-33 in 1974. The minimum yard and lot requirements for the RS-1 district have remained unchanged since 1974 and are as follows:

Minimum Yard(setbacks):	Minimum Lot Area:	Minimum Lot Width:
30' Front	10,800sf	90ft
10' Side		
15' Rear		

Parcel C was created with a width of approximately 75 feet[74.44'] in 2000[deed recorded in 2001]. Because Parcel C fails to meet the minimum lot width requirement of the RS-1 zoning district development permits cannot be issued to Parcel C until the nonconforming status is rectified.

Lot Width is defined in article 32 LDC as, *"The mean horizontal distance between the side lot lines, measured at right angles to its depth."*

Yard, front is defined in Article 32 LDC as, *"A yard extending across the front of a lot between the side lot lines and being the minimum horizontal distance between the street line and the principal building..."*

Land Development Code; Section 29.07 LDC

The language found in Section 29.07 LDC was included verbatim in the Nassau County Zoning Code in 1974 and has survived every amendment and substantial rewrite since.

Section 29.07 LDC states,

"...After the effective date of adoption of the ordinance, no lot or parcel in any district shall be so divided as to create a lot with area or width below the requirements of the ordinance; and no lot or parcel or portion of a lot or parcel shall be used or sold in a manner which diminishes compliance with lot area and width requirements established by the ordinance."

The 1.7 acre parent parcel was divided without review of Nassau County in a manner that was in direct conflict with the established regulatory standard. The result of the parcelization of the 1.7 acre property rendered Parcel C nonconforming. Staff does not have the authority to issue development permits to Parcel C.

It is important to note that the total width of the 1.7 acre parent parcel was approximately 217 feet[north boundary 209.65/south boundary 225.7]. Based upon the survey provided with application V14-001, the parent parcel possessed dimensions capable of creating Parcel C with enough width to meet the deminsional criteria of the respective zoning district. Unfortunately, the established regulations of Nassau County were not consulted prior to the division of the 1.7 acre parent parcel.

The conditional use and variance Board is being asked to issue an after-the-fact variance to resolve an issue amongst a family related to the division of their parent's estate. The after-the-fact variance is a request to allow the development of a building site that was created in violation

of the minimum standards of Nassau County. The estate is still owned in its entirety by the heirs of the Adams family albeit not as a single parcel of land.

Lot-of-Record Status:

A Lot of Record is defined by Nassau County as,

"A lot which is part of a subdivision, the map of which has been recorded in the office of the Clerk of the Circuit Court of Nassau County, or a parcel of land the deed of which was recorded in the office of the Clerk of the Circuit Court prior to the adoption of this ordinance."

The Nassau County Zoning Code/Land Development Code has contained functionally the same definition for a Lot-of-Record since 1974. The definition of a Lot-of-Record has survived every amendment and rewrite since inception.

Even if Nassau County were to use the most liberal interpretation possible of when a parcel of land qualifies as a Lot-of-Record, July 28, 1997, which correlates to the last substantial rewrite of the Land Development Code, Ord. 97-19, Parcel C would not qualify as a Lot-of-Record as defined by Nassau County. As such, Parcel C does not enjoy the rights afforded a Lot-of-Record as described in Article 29 of the Land Development Code.

Bellville Lane

The property is accessed via Bellville Lane, a county maintained prescriptive right-of-way. The majority of Bellville Lane is a single-lane dirt road. In many places the graded portion of the road is of a width insufficient for two vehicles to pass while traveling in opposite directions. The driveway to the subject property, Parcel C, is directly from Bellville Lane at the point where Chester Road becomes Bellville Lane at a 90 degree curve to the west. The exact amount of frontage Parcel C has on Bellville Lane is inconclusive based on the documentation provided and the informal boundary of Bellville Lane.

The linear frontage and access point of the parent parcel (by extension Parcel C) has remained unchanged since at least 1976[most likely longer ref. OR1820/996 and OR 436/421]. What has changed is the access to Parcels A and B. Michael Adams, the benefactor of Parcels A and B, purchased additional properties expanding his land holdings creating additional frontage on Chester Road and established a separate access point further south on Chester Road.

It is important to note that based upon the relationship between the subject property(Parcel C) and Bellville Lane; even if Parcel C had been created at a width of 90 feet the access point and frontage on Bellville Lane would not have been affected. Parcels A and B have a separate access point only because Michael Adams(Applicant's brother) acquired additional lands allowing the creation of a separate access point on Chester Road. If additional lands had not been acquired, access to Parcels A and B would have been through the original access point on Bellville Lane which is now intended to serve only Parcel C.

Never had
90' frontage

Functionality and a Pragmatic Approach

Being pragmatic, whether the Conditional Use and Variance Board issues the variance or the heirs of the Adams family estate transfer land amongst themselves to make Parcel C 90 feet wide the result will be the same; the construction of one single family home on Parcel C. The point of access will not change and the number of dwelling units located on Parcel C will not change.

In looking solely at the functional size of Parcel C as a building site and removing all other issues, Parcel C appears to contain adequate land area and be of a composition to construct a single family home. Parcel C does not have access to public water and waste water and thus will require service from private well and an onsite sewage disposal system. No information related to ability to permit a private well and onsite sewage disposal system was provided as part of this application.

In the simplest terms, there appears to be enough suitable land area associated with Parcel C to construct one single family home provided the future owner can meet the requirements of the State of Florida for the installation of a private well and onsite sewage disposal system. The parcel measures approximately 75'x 300' with roughly 75' of frontage on Bells River.

According to Staff research, the subject property, Parcel C, is listed as "Sale Pending" on Century 21's website; MLS# 526230. The purchase price listed on the website is \$139,900. <http://www.century21.com/property/97277-bellville-In-yulee-fl-32097-ERA21453689?g=0>

G. Analysis

- A. *Show that special conditions and circumstances exists which are peculiar to the land, structure, or building involved and are not applicable to other lands, structures, or buildings in the same zoning district.*

The parent parcel measured 1.7 acres when purchased in 1993. The parent parcel was divided into three individual building sites (Parcels A, B, and C) in 2001 with no review by Nassau County and without consultation of the established governing standard. When the individual building sites were created Parcel C did not meet the minimum lot width requirements of the zoning district and thus the division of the 1.7 acre parcel was in direct conflict with Section 29.07 LDC. As a result, Parcel C is a nonconforming parcel of land pursuant to the Nassau County Land Development Code.

The failure to abide by the rules established by Nassau County in relation to the creation of building sites is not a special condition or circumstance that is peculiar to the subject property. Based upon the survey provided with application V14-001, the parent parcel was of a size capable of establishing Parcel C in conformance with the lot width requirements of the RS-1 zoning district. Unfortunately, the requirements of Nassau County were not consulted.

The Conditional Use and Variance Board is being asked to issue an after-the-fact variance to resolve an issue amongst a family related to the division of their parent's estate. The after-the-fact variance is a request to allow the development of a building site that was created in violation of the minimum standards of Nassau County. The estate is still owned in its entirety by the heirs of the Adams family albeit not as a single parcel of land. Staff finds no special condition or circumstance that is unique to this property as it relates to the width of the Parcel C.

B. Show that special conditions and circumstances do not result from actions of the applicant.

In its simplest form, application V14-001 is an after-the-fact variance request related to the conveyance of a portion of a parcel of land which created a nonconformity. The parent parcel was divided in a manner which is inconsistent with Section 29.07 and Article 9 of the Land Development Code. As a result, Staff does not have the authority to issue development permits to Parcel C.

The submitted application argues that Malcolm Adams(Applicant) was not involved in the division of the parent property(creation of Parcel C) and was simply deeded Parcel C with no involvement in the division of property or monetary investment and thus he should not be held accountable for the nonconformity despite accepting ownership of Parcel C.

The submitted application states,

"In fact, he[Malcolm Adams] simply accepted the parcel as divided by his parents, and was unaware of any issues/deficiency with the lot at the time"

Based on recorded documents, Malcolm Adams was presumably aware that the parent parcel was being subdivided and that he was to be the recipient of Parcel C as was described both in the legal description contained within the quit-claim deed of which he signed and the pictorial representation of said legal description on the referenced survey. However, this is immaterial to the issue being reviewed.

The fact that the Adams' family did not divide the parental estate in manner consistent with the rules governing such action in Nassau County at the time of division does not alleviate the Applicant from the results of said action.


Nassau County has established standards related to the division of land. These standards are set in place not to serve the Nassau County Government but to protect future owners and to ensure development permits can be obtained when it comes time to develop a particular parcel.

The argument justifying the issuance of variance V14-001 is such that any person who is conveyed a property without remittance is immune to the rules and regulation as defined by the Nassau County.

Under this logic, an individual could take ownership of a 300' wide property fronting on Bellville Lane and create an estate. Then the estate can convey four 75' wide parcels to whomever. Based upon the argument for the issuance of variance V14-001, Nassau County is obligated to give each 75' parcel a building permit simply because the parcels were conveyed without remittance despite the fact the parcels were created in direct conflict with the established regulations of Nassau County.

- C. *Show that granting the variance will not confer on the applicant any special privilege that is denied by this ordinance to other lands, buildings, or structures in the same zoning district.*

The minimum lot width in the RS-1 zoning district is 90'. Planning Staff is charged with administering the Land Development Code. Other parcels of land which are not Lots-of-Record and do not meet the minimum lot width of the respective zoning district cannot be issued development permits until the deficiencies are remedied. The issuance of this variance, based upon the information provided, will confer special privilege to Applicant that is denied others in the same zoning district.

The Conditional Use and Variance Board is being asked to issue an after-the-fact variance for the purpose of providing a remedy to a nonconformity that was created by the division of the estate of Willis and Dorothy Adams. The estate was divided in a manner that was inconsistent with the rules as they existed at the time of property division and those rules are still applicable today. The remedy to this nonconformity should be reached by the heirs to the estate not through the interceding of the local government. 

The submitted application states,

"The requested variance will permit a home to be built upon the lot so it can be used in accordance with its limited zoning classification as a single family residence."

- D. *Show that literal interpretation of the provisions of this ordinance would deprive the applicants of rights commonly enjoyed by other properties in the same zoning district under the terms of this ordinance and would place unnecessary and undue hardship on the applicant.*

The literal interpretation of the governing regulation will not allow Staff to issue development permits for Parcel C or any other parcel which is not a Lot-of-Record and fails to meet the minimum lot width requirements of the respective zoning district. As stated above, the estate of Willis and Dorothy Adams was divided in a manner that is inconsistent with the adopted standards of Nassau County and thus Parcel C is rendered nonconforming.

The submitted application states,

"...the property has no meaningful use due to the lot width and road frontage constraints, with the variance, it is expected the lot will sell and become the site of a single-family home which will increase its taxable value, but will also permit a use of the subject property common to those enjoyed in this zoning district."

- E. *Show that the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure.*

As stated above, this is an after-the-fact variance request which is sought to remedy a nonconformity created from the division of a 1.7 acre parcel which was executed in a manner that is inconsistent with the applicable governing rule in Nassau County. It is reasonable to conclude that the variance is the minimum necessary to facilitate the request provided the Conditional Use and Variance Board moves beyond the fact that V14-001 is a request for an after-the-fact variance. In other

words, the potential home builder will still be required to meet the building setbacks(minimum yard requirements) for the zoning district and the width of the parcel is not going to be further diminished.

The submitted application states,

"The requested variance will permit a home to be built upon the lot so it can be used in accordance with its limited zoning classification as a single family residence."

- F. *Show that granting of the variance will be in harmony with the general intent and purpose of this ordinance and such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.*

Article 32 LDC

✓ The definition of a variance as found in Article 32 LDC is as follows,

Variance: A device which grants a property owner relief from certain provisions of this ordinance, when because of the particular physical surroundings, shape, or topographical condition of the property, compliance would result in a particular hardship upon the owner, as distinguished from a mere inconvenience or a desire to make more money. ...nor shall a variance be granted because of the presence of nonconformities in the zoning district or in adjoining district.

(The need for this variance is not related to the physical surroundings, the shape of the parcel, or any topographical conditions. The genesis of this variance request is related to the fact that the parent parcel was divided into three individual building sites (Parcels A, B, and C) with no review by Nassau County and without consultation of the governing rule. When the individual building sites were created Parcel C did not meet the minimum lot width requirements of the zoning district and thus was in direct conflict with Section 29.07 LDC and Article 9 LDC. As a result, Parcel C is a nonconforming lot pursuant to the Nassau County Land Development Code.

Staff maintains that the appropriate manner to rectify the nonconformity and allow the Applicant to execute the sell of the property to a third party is for the heirs of the Adams family estate to transfer land amongst themselves to provide Parcel C with sufficient width to meet the minimum requirements of the zoning district. ✱

Does the variance process exist to remedy actions taken in direct conflict with the established regulations of Nassau County?

- G. *The granting of the variance will not exceed the density or intensity of land use as designated on the Future Land Use Map 2010 or the underlying land use.*

3 per acre
1.7 acres
The subject property is designated as Medium Density Residential (MDR) on the Future Land Use Map as adopted with the 2030 Comprehensive Plan of Nassau County. The Medium Density Residential land use category allows for a residential density not to exceed three(3) dwelling units per acre of land. The submitted application is contemplating the construction of one single family home on 0.54 acre. The requested variance will not cause the structure or Lot to exceed the density or intensity of the land use as designated on the Future Land Use Map 2030 or the underlying land use. }

H. Staff Findings

If the Conditional Use and Variance Board determines, based upon competent and substantial evidence introduced into the record, application V14-001 meets the standards for review as defined in Section 3.05(B)(2) LDC then the approval of V14-001 would be appropriate upon clarification of the merits of the application. The determination of whether special conditions and circumstances exist, and; whether the actions of the Applicant created those special conditions and circumstances, and; if the approval of V14-001 meets the general intent of the variance process are matters for the Conditional Use and Variance Board to decide based upon the evidence presented.

Staff finds that Application V14-001, based upon the information that has been provided, fails to demonstrate consistency with the standards of review for the issuance of a variance as defined in Section 3.05(B)(2) of the Nassau County Land Development Code. **Staff recommends the Conditional Use and Variance Board deny application V14-001 based upon a failure to demonstrate consistency with review criteria A, B, C, and F as defined in sec. 3.05(B)(2).**

F. Motion of Approval

The Board finds competent, substantial evidence in the record and testimony received to **Approve** application V14-001, a request to reduce the minimum lot width requirement from 90' to 73.44' to accommodate the construction of a single family dwelling in the Residential Single Family-One (RS-1) zoning district, based upon the standards of review as defined in Section 3.05(B)(2) LDC.

G. Motion of Denial

The Board finds competent, substantial evidence in the record and testimony received to **Deny** application V14-001, a request to reduce the minimum lot width requirement from 90' to 73.44' to accommodate the construction of a single family dwelling in the Residential Single Family-One (RS-1) zoning district. Citing specifically the failure to demonstrate consistency with the standards of review (a), (b), (c), and (f) for the issuance of a variance as defined in Section 3.05(B)(2) of the Land Development Code of Nassau County.

Applicant Exhibit 8 – Various pages of
CU&V Minutes from 6-25-15 from Bill
Hazes Court Reporting (64 pages)

Exhibit 8

Exhibit "8"

CU&V MEETING

June 25, 2015

MINUTES

NASSAU COUNTY CONDITIONAL
USE AND VARIANCE BOARD

REGULAR MEETING
Thursday June 25, 2015

In Re:

TAB (B) V15-001

BLUE POTATO PROPERTIES,
LLC/Arthur I. Jacobs

Upon proper notice, the regular meeting of the Nassau County Conditional Use & Variance Board was held in the Commission Chambers, James S. Page Governmental Complex, 96135 Nassau Place, Yulee, Florida, 32097, commencing at 7:00 p.m., chaired by Orlando J. Avila, as reported by William A. Hazes, Professional Court Reporter.

BILL HAZES COURT REPORTING
501 Centre Street
Fernandina Beach, Florida 32034
(904) 261-5900

ORIGINAL

1 CHAIRMAN AVILA: Okay.

2 Taco, the floor is yours to present tab B,
3 applicant -- V15-001.

June 23, 2015

4 MR. POPE: Yes, sir.

5 Tab B, V15-001, Blue Potato Properties, LLC,
6 represented by Arthur I. Jacobs, Jacobs and
7 Associates.

8 The applicant requests relief from the Section 9
9 point 04(A) of the land development code. They are
10 asking for relief from the minimum lot width of
11 ninety feet to reduce it to seventy-three point four.

12 This Board reviewed this property previously as
13 as part of application V14-001 which was brought to
14 this Board by a previous owner and previous different
15 counsel.

16 In April 2014 application V14-001 was denied.

17 Section 5 point 05(F) of the land development
18 code says that the denied application cannot to be
19 resubmitted nor can any action be taken on a new
20 application for basically the same relief for the
21 same property until twelve months after the last
22 petition was denied.

23 We are now at that twelve month mark.

24 So it is the same property, different ownership,
25 different counsel.

1 In speaking with the applicant and his counsel
2 there will be additional evidence submitted into the
3 record this evening that you -- for you all to
4 consider.

5 Just as a refresher, the property is in the
6 Yulee area, north of State Road 200, at the northern
7 terminus of Chester Road.

8 In yellow is Black Rock. Chester is running
9 north and south. It makes a ninety degree turn to
10 the left. It becomes Belleville Lane.

11 The subject property is right near the north
12 side of that ninety degree turn.

13 A demonstration of the subject property is a
14 residential single family 1 zoning district, as is
15 the surrounding properties, medium density,
16 residential land use designation.

17 The red polygon is the subject property. It is
18 just over a half of an acre. It was previously part
19 of a one point seven acre estate that was purchased
20 in 1993.

21 In 2001 the property was subdivided into three
22 separate parcels. One of the heirs of the estate got
23 parcels A and B. One heir got parcel C.

24 When the division was done, parcel C was divided
25 out at seventy-five feet in width.

1 And there, just for demonstration purposes, the
2 entire parent tract was two hundred and twenty-five
3 feet in width.

4 This is significant because -- I'll speak about
5 it in a moment -- the minimum lot width requirement
6 in the RS1 zoning district is ninety feet.

7 The red dashed line is just a demonstration of
8 what ninety feet would look like in comparison to
9 seventy-five feet, just more or less... just so you
10 can get the scale of what we're talking about.

11 The land development code minimum lot width of
12 ninety feet in the zoning district has been in the
13 book since 1974.

14 Section 29 point 07(B) prohibits the creation of
15 nonconforming lots. No lot or parcel in any district
16 shall be so subdivided as to create a lot with an
17 area -- an area or width below the requirements of
18 the ordinance.

19 We attempted to utilize the lot of record
20 provision, which states if there was a lot that was
21 created and recorded in the clerk of courts prior to
22 the adoption of our land zoning code, then the lot
23 width requirements would not apply.

24 Unfortunately, the subject property doesn't meet
25 the standards to be determined to be considered a lot

1 of record.

2 Just to touch on access real quick. The
3 traditional, the historic access from what I have
4 gathered in speaking with the applicant and current
5 and previous counsel, was at this ninety degree bend
6 in the property, which is the same point of ingress,
7 egress -- ingress and egress to parcel C.

8 Beyond just the natural migration of the dirt
9 roadway, there has been no significant change in that
10 aspect. What has changed significantly is the heir
11 who received parcels A and B has purchased additional
12 properties and created a new access point.

13 So on the ground what you have is the burgundy
14 to red parcel being parcel C, the subject parcel
15 tonight, and then the remainder of the site of the
16 additional purchase in yellow.

17 This is staying on Chester Road after the ninety
18 degree turn, looking down Belleville Lane, looking
19 into the subject property from the bend into it.

20 This house here on the righthand side of your
21 screen, that is the home that is located on parcel A
22 and out of that estate, which was that parcel A --
23 parcel A is here.

24 That is the home here. You see the neighbor's
25 home on the left.

1 This is standing on the bank looking back into
2 the property.

3 The reason I showed all the pictures, I just
4 wanted you to have a good understanding of what it
5 actually looks like on the ground.

6 It is seventy-four feet wide, and is three
7 hundred feet deep. So it is a significant piece of
8 dirt. It is -- If it's not completely uplands, it's,
9 you know, almost completely uplands.

10 There is a house built on either side of the
11 subject property.

12 It's a -- I just wanted you to have a good feel
13 of what is actually out there on the ground. I mean
14 this isn't a piece of swamp. Sometimes we get things
15 in that have, you know, just physical limitations.

16 So I think it is important to bring out the
17 character of the site.

18 There are three things that I want to bring your
19 attention to. The first is in your book. There is a
20 memo from the planning department dated May 22nd.

21 Behind that memo is the staff comments from the
22 2014 application.

23 You also have a hand-out. We received this on
24 Tuesday of this week. It is an amended narrative
25 provided by staff and counsel. So that's a

1 hand-out.

2 And then the second hand-out that you have is a
3 memo dated June 25th, 2015 from the planning
4 department, and it has the language for your motions.
5 You can see there is a motion for an approval and a
6 motion for denial.

7 As with everything we do, if the Board
8 ultimately moves forward to approve the application,
9 it has to be based on competent and substantial
10 evidence.

11 Entered into the record that the application is
12 consistent with the general intent of the variance
13 and the review criteria

14 Likewise, if the Board moves to deny the
15 application there has to be a finding that the
16 application has failed -- the applicant has failed to
17 demonstrate consistency with the criteria for
18 approval of variance.

19 Procedurally, we will conclude with that.

20 And I'll take any questions.

21 CHAIRMAN AVILA: Thank you, Taco.

22 Does the Board have questions for Taco before he
23 leaves the stand?

24 VICE CHAIRMAN VAN DELINDER: Taco, where that
25 dotted line is I see something right in my

1 perspective, so left of it, what -- is that a -- to
2 the left -- if they were to add seventeen feet, would
3 it take out property or is that just a mobile home
4 that is in there?

5 MR. POPE: I'm -- I am hesitant to answer that
6 question because I don't know that at a, you know, at
7 a survey level what it would do to the property.

8 CHAIRMAN AVILA: Thank you, Taco.

9 Does the applicant wish to make a presentation?

10 MR. JACOBS: Yes, sir.

11 Mr. Chairman, and members of the committee, I am
12 Buddy Jacobs.

13 I am here on behalf of the applicant, Blue
14 Potato, LLC. And I don't know why he named it that,
15 but that is what it is. His name is John Dukes. He
16 is here tonight to testify as well.

17 And I would just like to start by --

18 CHAIRMAN AVILA: Mr. Jacobs...

19 MR. JACOBS: Yes, sir.

20 CHAIRMAN AVILA: You need to be sworn in.

21 MR. JACOBS: Yes, sir.

22 THE CLERK: Please raise your right hand.

23 (Mr. Jacobs complies.)

24 THE CLERK: Do you swear or affirm the testimony
25 you are about to give tonight is the truth, the whole

1 truth, and nothing but?

2 MR. JACOBS: I do affirm.

3 THE CLERK: Thank you.

4 MR. JACOBS: Thank you.

5 I would like to begin the presentation with just
6 a quote from page 6 of the staff report.

7 In looking solely at the functional size of
8 parcel C as a building site and removing all other
9 issues, parcel C appears to contain adequate land
10 area and be of a composition to construct a single
11 family home.

12 Parcel C does not have access to public water or
13 waste water, and thus would require service of
14 private well and onsite sewage disposal system.

15 No information related to a building to permit
16 private well and onsite sewer disposal system was
17 provided as part of this application.

18 And I would like to, if I might ask, Mr.
19 Chairman, to call my first witness, if that would be
20 all right?

21 (No response.)

22 MR. JACOBS: All right. We would like to call
23 Andrea Desilet... Desilet. I can't remember his name
24 right. But it's Desa-ray with Dasi-lay.

25 He is project manager of Gillete and Associates.

1 Over here.

2 MR. DESILET: Uh-hum.

3 MR. JACOBS: All right, sir.

4 You want to swear him in then, I guess?

5 THE CLERK: Please raise your right hand.

6 (Mr. Desilet complies.)

7 THE CLERK: Do you swear or affirm the testimony
8 you are about to give tonight is the truth, the whole
9 truth, so help you God?

10 MR. DESILET: Yes, I do.

11 THE CLERK: Thank you.

12 MR. JACOBS: All right. Would --

13 CHAIRMAN AVILA: Could you state your name for
14 the record.

15 MR. JACOBS: Yeah, I was going to --

16 THE WITNESS: My name is Andrea Desilet with
17 Gillete and Associates.

18 CHAIRMAN AVILA: Thank you.

19 EXAMINATION

20 BY MR. JACOBS:

21 Q All right.

22 Would you please give the committee -- the
23 commission your background and what profession you're in.

24 A All right. I have a degree in civil engineering
25 from the University of Florida.

1 I have permitted commercial and residential
2 developments as well as commercial and private septic
3 systems in the Nassau County area for the last fifteen
4 years.

5 Q All right, sir. I show you what appears to be a
6 letter from your company.

7 Do you recognize the letter?

8 A Yes, I do.

9 Q All right, sir. And would you, if you would,
10 please publish the letter to the commission.

11 A "Dear Mr. Jacobs.

12 "After review of the subject property and the
13 adjoining properties, it appears that the necessary
14 setbacks exist to construct a single family house
15 that is served by a well and septic system.

16 "This considers a seventy-five foot setback
17 between onsite well and septic systems as well as the
18 the necessary setbacks between offsite wells and
19 septic systems.

20 "The seventy-five foot setback is also able to
21 be accommodated between the Bells River and the
22 onsite septic system.

23 "Although the property does not meet the minimum
24 lot widths for the RS-1 zoning district, there is
25 sufficient width and depth to construct a traditional

1 home even considering the RS-1 building setbacks.

2 "The house could be approximately fifty feet in

3 width and could be over one hundred feet in depth

4 based on the large overall depth of the lot."

5 Q All right, sir. And this letter is signed by

6 Nick Gillette.

7 A (Nods head affirmatively.)

8 Q And what is his relationship to you in this

9 company?

10 A He's a partner in the firm.

11 Q All right. Do you recognize that as his

12 signature?

13 A I do.

14 Q All right, sir. Have you been -- Have you

15 visited the site?

16 A I have.

17 Q Have you studied the same things that Mr.

18 Gillette studied as well?

19 A Yes, I have.

20 Q Is your conclusion the same that he has placed

21 in this letter?

22 A Yes, I agree with him.

23 Q All right.

24 MR. JACOBS: Mr. Chairman, I would like to offer

25 the letter into evidence, and I also have copies for

5,000/7

1 all the members.

2 If I might approach the commission?

3 CHAIRMAN AVILA: Of course.

4 (Mr. Jacobs tenders documents.)

5 MR. JACOBS: I have no further questions of the

6 witness, unless the panel would like to ask some

7 questions.

8 VICE CHAIRMAN VAN DELINDER: I have a question.

9 It says the seventy-five foot setback between

10 onsite well and systems, is that also including the

11 wells of the neighbors?

12 MR. DESILET: Yes. It mentions that setback

13 between the onsite well and the septic systems as

14 well as the necessary setbacks between the offsite

15 well and septic systems.

16 VICE CHAIRMAN VAN DELINDER: Okay.

17 MR. JACOBS: Any further questions?

18 VICE CHAIRMAN VAN DELINDER: Not at this time.

19 Thank you.

20 MR. JACOBS: Thank you, sir.

21 I'll get your name right the next time.

22 Mr. Chairman, I'm sorry I didn't ask this

23 question earlier. Am I allowed to reserve a few

24 minutes for rebuttal in case that's necessary?

25 CHAIRMAN AVILA: Yeah. That's part of the

1 procedures.

2 MR. JACOBS: All right.

3 CHAIRMAN AVILA: Once -- Once the -- if there's
4 any opposition, they come up, and we will call you up
5 for rebuttal to address any of these concerns.

6 MR. JACOBS: All right, sir.

7 Thank you very much.

8 At this time, I would like to call Mr. John
9 Dukes as a witness.

10 Stand over here.

11 THE CLERK: Please raise your right hand.

12 Do you swear or -- Do you swear or affirm that
13 the testimony you are about tonight is the truth, the
14 whole truth, so help you God?

15 MR. DUKES: I do.

16 THE CLERK: Thank you.

17 State your name, please.

18 MR. DUKES: John Dukes. I am managing member of
19 Blue Potato Properties.

20 EXAMINATION

21 BY MR. JACOBS:

22 Q If you would, please give them a little bit of
23 your background and if you might -- I might ask you the
24 question, do you know this commission turned this down the
25 last time?

1 A Yes, I do.

2 Q And want -- And you have since purchased, and
3 just want to know something about your background and why
4 you bought this property.

5 A Okay. Mainly because we want to be here.

6 The -- My background is in real estate
7 development. I was in Savannah for a number of years.
8 Been in middle Georgia recently.

9 I had some health issues a couple of years ago.

10 All is well. And Susan and I decided we wanted to get to
11 the -- somewhere in the deep water on the coast.

12 So we looked pretty much for two months
13 everywhere north of Gainesville, both the east coast and
14 the west coast. And she always said, "You'll know it when
15 you see it." And we did. We pulled up here. We really
16 loved this lot. The oak trees were just great.

17 And by the way, I estimate based on the formula
18 I have a couple of those oak trees to be over four hundred
19 years old and one to be over three hundred years old. So
20 they're quite -- quite nice.

21 The water is deep. The views are good. The
22 location is far and above some of the rural locations we
23 saw up and down the rivers.

24 Shopping is only just a shade over four miles
25 away to Winn-Dixie, to Home Depot, Target, etcetera.

1 So it is just a place we want to be. We fell in
2 love with Fernandina. We like the downtown area. You
3 guys have it all going for you here, and we just want to
4 be a part of it.

5 And why did I buy after getting turned down?

6 I really felt that if -- from my past
7 experience, I saw nothing with this lot that I didn't --
8 that made me believe it wasn't a functional lot as far as
9 accepting utilities and building a house on it.

10 So I felt like if the commission -- if we could
11 answer those questions, you might consider giving us an
12 available variance with -- for this. And that is my hope.
13 And that is why we -- I went ahead with the purchase.

14 I just could find no reason for it not to be a
15 buildable lot, other than it did not meet the existing
16 criteria.

17 If you haven't been out there, please go look.
18 It is a beautiful neighborhood.

19 Q All right, sir.

20 I am going to show you what appears to be a
21 boundary survey and with also tree designations. Do you
22 recognize both?

23 A Yes, sir, that is the current survey.

24 Q This is a survey you had done for your property?

25 A Yes, sir.

1 Q And that is a raised seal, so that's a --

2 A Yeah. All of these have original seals on them.

3 Q All right.

4 MR. JACOBS: If I might approach, and I want to
5 offer this into evidence and hand you copies.

6 (Mr. Jacobs tenders documents.)

7 BY MR. JACOBS:

8 Q I know we don't have much time, but we -- you
9 see that we have presented them with a survey, which this
10 now -- I guess we would call this our exhibit number 2, if
11 that is all right with the chairman.

12 And would you talk about this survey and tell
13 them how you know these trees are that old.

14 A You mean the formula?

15 Q Yes, sir.

16 A The formula I arrived at, which I actually found
17 online, was you come up about four and-a-half feet and you
18 measure the circumference of a tree trunk. You multiple
19 that into inches. You divide that by pi, three point one
20 four.

21 You subtract ten inches. The first ten inches
22 on an oak tree, a live oak tree like this, supposedly
23 represents seventy-six years.

24 So when you subtract the ten inches, you add six
25 and-a-half feet -- or six and-a-half years, excuse me, for

1 every additional inch of two hundred and fifty-four
2 inches, which would -- they're not quite that big.

3 But that one tree measures a nineteen feet
4 circumference. The formula kicks it out to be four
5 hundred eighty or ninety years.

6 One tree is sixteen feet in circumference, and
7 one tree twelve feet in circumference, and one tree I
8 believe was seven and-a-half feet in circumference.

9 Q And it is your intent to not cut down any of
10 these trees when you build your house; is that right?

11 A That is the reason we bought lot. No, sir.

12 Q Okay. All right.

13 Next I show you what appears to be a property
14 detail from A. Michael Hickox, the Nassau County Property
15 Appraiser.

16 Is that the tax details on this lot?

17 A That is, yes, sir.

18 Q All right, sir. If you'll hold the copy there.

19 All right, sir.

20 And if you would, let me --

21 MR. JACOBS: Mr. Chairman, if I might approach?

22 (Mr. Jacobs tenders documents.)

23 MR. JACOBS: First, I would like to offer this
24 as our exhibit number 3 -- is that correct -- into
25 evidence.

1 BY MR. JACOBS:

2 Q Would you please publish to the commission what
3 what the taxes are on this property.

4 A The county has it, this property, valued at a
5 hundred and sixty-six thousand five hundred dollars.

6 Q All right.

7 Now for purposes of illustration, I am going to
8 show -- and we're talking about the taxes --

9 MR. JACOBS: And this illustration is not for
10 evidence, but he will be testifying about it, I
11 thought it would be easier for y'all to see these
12 things.

13 (Mr. Jacobs tenders documents.)

14 MR. JACOBS: That's for you.

15 BY MR. JACOBS:

16 Q Now the one with the photographs on it, now you
17 prepared this; is that correct?

18 A I did, yes, sir.

19 Q Okay. And that is the side that you see with
20 the -- And so what does this demonstrate to the
21 commission?

22 A Gentlemen, this is a view of the entire
23 development along the Bells River running from really the
24 end of Belleville Lane to Cape Street all the way down to
25 Landings Trail, which is in Pirates Wood subdivision.

1 You will notice a couple of things here.

2 Basically I measured it to be about one point ⁵⁸five miles

1 1/4 miles

3 by road, and Captain Mike Adams told me that is was one

4 nautical mile, which -- so it was very close. A nautical

5 mile is roughly one point one five miles.

6 So in that just over a mile you've got forty-two

7 lots. Every one of them, with the exception of three, one

8 which is mine, have an existing dock. All but one -- all

9 but two, besides mine, have already been developed and

10 have houses existing. All but three actually have houses

11 on them.

12 So this just illustrates the deep water area in

13 the existing development of this neighborhood.

14 Now Pirates Wood is not in the Belleville Lane

15 neighborhood. It has its own different access. But they

16 do share the same river frontage.

17 Q All right, sir.

18 I am going to ask you, if you would, to put that

19 to the other side, just so they have that in their hands.

20 And if you would, please describe what you have

21 there.

22 Q Let me grab it. Okay.

23 Gentlemen, what I did here was, my lot in

24 question is valued at a hundred and sixty-six thousand

25 five hundred dollars. That is land value as there is no

1 improvements on my house -- on my lot.

2 I have numbered these. These are the same lots
3 that I just showed you and questioned that would come -- I
4 have numbered these 1 through 38. There are actually
5 forty-four, but the tax records I pulled had no site
6 address on them. And so this will give us a good
7 illustration of the -- of the point I am trying to make
8 here.

9 If you will look at lot number 7, that is my
10 lot. Look at the value of the property. Based on a
11 square foot basis, I am being taxed at five dollars and
12 eighty-eight cents a square foot. That is based on the
13 county tax.

14 In reality, the county has this as point six
15 five acres. It's actually point five four measured by the
16 surveyor.

17 In reality I am being taxes at seven dollars a
18 foot.

19 Q Before you proceed, this information you have
20 derived here tonight, this all came from Michael Hickox,
21 but the math is your math, right?

22 A That is correct.

23 Q All right.

24 MR. JACOBS: And so for that purpose, we would
25 like to offer this into evidence as a description of

1 each one of the lots there that are illustrated
2 there.

3 Mr. Chairman, I would like to approach and hand
4 this to you all so you can follow along.

5 This won't take much time.

6 You are just going to take a couple --

7 THE WITNESS: I am going to run right through
8 it, yes, sir.

9 MR. JACOBS: That's all right... okay.

10 (Mr. Jacobs tenders documents.)

11 BY MR. JACOBS:

12 A Gentlemen, my reason for preparing this -- my
13 point is it is only based on the true... the point five
14 four acres I am being taxed. I am showing it on my lot of
15 five eighty-eight. That is based on the six five acres,
16 truly it is seven dollars based on the five four.

17 Only three lots on the whole river are being
18 taxed at a higher rate than I am. And based on the six
19 five acres only nine lots on the whole river are being
20 taxed.

21 So my point is that the appraisers office thinks
22 a lot of this property. I am paying more taxes per square
23 foot than over ninety percent of the property owners along
24 there, and I am not allowed to build a house on it.

25 And I am thinking if -- I am just hoping that

1 the tax assessor... that y'all have the same opinion he
2 does.

3 Q All right.

4 MR. JACOBS: We have no -- nothing else to add
5 at this moment and reserve for rebuttal.

6 I just wanted to ask my client, is there
7 anything else you would like to say?

8 THE WITNESS: No, sir, not at this time.

9 I thank you guys for your time and
10 consideration.

11 CHAIRMAN AVILA: You're welcome, sir. Thank
12 you.

13 Thank you for the thorough presentation.

14 MR. JACOBS: Any questions, Mr. Chairman?

15 VICE CHAIRMAN VAN DELINDER: Curiosity question
16 you brought up when you said there's docks in all but
17 two. Is there a requirement for a distance between
18 the docks, between say 6, 7, and 8?

19 THE WITNESS: To my knowledge, no. But I don't
20 know.

21 If you're looking at 6, 7, and 8...

22 VICE CHAIRMAN VAN DELINDER: Yeah. Yours being
23 7 is a dock --

24 THE WITNESS: No, sir. I do have a dock permit.

25 VICE CHAIRMAN VAN DELINDER: You can't get a

1 ship any bigger than eighty feet.

2 THE WITNESS: No, sir. And I don't want one.

3 The -- As I understand it, I can be a third of
4 my lot width with my dock.

5 VICE CHAIRMAN VAN DELINDER: Okay.

6 MR. DUKES: And that is going to limit me to
7 twenty-five feet at the max being out there.

8 And I don't want to go any deeper than my two
9 adjoining neighbors' docks because both of those guys
10 are shrimpers and they -- they need the access, and I
11 won't be here every day. So we are going to be very
12 cognizant of what we build. We want to be as good of
13 neighbors as we can.

14 VICE CHAIRMAN VAN DELINDER: Okay.

15 CHAIRMAN AVILA: Thank you, sir.

16 MR. JACOBS: Just in closing before we get to
17 rebuttal, certainly this could be a conditional
18 variance, if you all would allow it, if you do allow
19 it, where he has to get a water, you know, a well
20 permit and a sewer permit. And we understand that.

21 So whatever you all do, we still have to go and
22 do that as well. And we understand if you want to
23 make it contingent on that, we understand that as
24 well.

25 And I would -- At this time, Mr. Chairman, we

1 rest for the moment and would like to reserve any
2 time for rebuttal if it is necessary.

3 CHAIRMAN AVILA: Of course.

4 MR. JACOBS: Thank you.

5 CHAIRMAN AVILA: Thank you, Mr. Jacobs, Mr.
6 Dukes.

7 Do I have a motion to open the floor for
8 discussion?

9 VICE CHAIRMAN VAN DELINDER: So moved.

10 BOARD MEMBER BROCK: Second.

11 CHAIRMAN AVILA: Call the vote. All in favor?

12 THE BOARD: Aye.

13 CHAIRMAN AVILA: Okay.

14 Is there -- Is there anyone in the audience
15 wishing to speak for this particular application?

16 (No response.)

17 CHAIRMAN AVILA: Is there anyone in the audience
18 wishing to speak against this particular application?

19 (Hands raised.)

20 CHAIRMAN AVILA: Please come forward to be sworn
21 in.

22 I need to have you state your name and address
23 for the record, and the clerk will swear you in.

24 MR. ADAMS: Michael Raymond Adams. 97275
25 Belleville Lane, Yulee, Florida.

1 THE CLERK: Mr. Adams, raise your right hand.

2 Do you swear or affirm the testimony you are
3 about to give tonight is the truth, the whole truth,
4 so help you God?

5 MR. ADAMS: I sure do.

6 THE CLERK: Thank you.

7 MR. ADAMS: You're quite welcome.

8 Good evening, Gentlemen.

9 CHAIRMAN AVILA: Good evening, Mr. Adams.

10 MR. ADAMS: Back in April when this committee
11 met before the conditions were for Mr. Dukes buying
12 it that he could... that the committee wouldn't
13 permit him to build a house. Nothing has changed in
14 the area since he purchased this property, and he
15 purchased it knowing that the committee said that he
16 could not build.

17 So what has changed, I am not sure.

18 He is talking about taxes. We all know in the
19 state of Florida when you first move into Florida and
20 buy, taxes, your taxes, are high. And if you don't
21 homestead they're even higher.

22 So I don't know what's the problem with taxes.
23 We're not here discussing taxes.

24 What we are discussing is the piece of property
25 seventy-three foot wide. Well, it's got a forty-two

1 foot entrance to the property, even though the
2 property is seventy-three feet wide.

3 When this thing was divided, my father did it,
4 Buddy Jacobs was the lawyer for my father and my
5 mother when he did the will, so it went through his
6 office, so he was well aware of everything that went
7 on.

8 My concern is it's a safety issue. It's a
9 narrow one-lane path. Taco has been down there. He
10 has seen it.

11 If two cars pass, one has to pull over in a
12 driveway and stop. If the rescue comes down there
13 and a fire truck, it's one -- the fire truck has to
14 wait until the rescue gets in and out.

15 My nextdoor neighbor -- he couldn't be here, the
16 one that lives on the other side of the piece of
17 property, he broke his hip last week, Mr.
18 Stellmach -- but if you build a house on this
19 place -- And there are restrictions about docks. You
20 can't build no wider than what your property allows
21 you as the building permit of twenty-five feet
22 clearance on each property line.

23 I have had the pleasure of taking Governor Scott
24 shrimping. I have had the pleasure of taking Senator
25 Nelson. Buddy Jacobs set us up with that.

1 I have lived in this county -- born and raised
2 in this county. And we got rules set up in this
3 county to protect the individuals that live in this
4 area, and not for people moving in. - See pg. 43 - Line 21


5 I agree, it is a gorgeous piece of property, but
6 he had the full knowledge when he bought this piece
7 of property that he was not allowed to build on it. ii ✓
8 And he was told that he was not allowed to build on
9 it by this committee.

10 And when you -- When you do something like
11 that -- and I know he's hoping to build down there,
12 but we want to preserve the neighborhood.

13 And the trees that he mentioned, I presented
14 pictures of the trees for the committee last time.
15 They're still in the record, I presume. And they
16 are, they are great big trees and everything.

17 And I do have an easement on this property C
18 that is thirty feet wide and a hundred and
19 ninety-nine feet long. You can't put a septic tank
20 on it. You can't put a well on it. It is for egress
21 and exgress -- for entering and going away. 142

22 Mr. Dukes, when he bought the property from my
23 brother signed a letter when he bought the property
24 stating that he understood that he could not build on
25 this property.



1 So there's nothing that is new. He was with a
2 full understanding when he bought this property that
3 he could not build on it.

4 And I expect the committee to uphold the laws
5 and rules of this county and represent the people
6 that they're sworn to represent. And we ask that you
7 deny this petition because it is a very narrow lot.

8 CHAIRMAN AVILA: Mr. Dukes, and you said you had
9 an egress that is thirty foot -- or an easement,
10 correct?

11 MR. ADAMS: Yes, sir. I have an easement on the
12 property.

13 CHAIRMAN AVILA: I was looking at the survey.
14 I'm sorry.

15 MR. ADAMS: Okay.


16 CHAIRMAN AVILA: I am trying to read it. Thirty
17 feet on --

18 MR. ADAMS: Do you see it?

19 CHAIRMAN AVILA: Yes, thirty feet on each side.

20 MR. ADAMS: Right. But he's got thirty -- my
21 brother had a thirty foot easement and I have a
22 thirty foot easement.

23 When the surveyors that did this, the easement
24 went to no where, and then when I purchased this
25 little piece of property here, that was the only way



1 that I could get off and on, because the easement was
2 here and went to this property.

3 My brother's easement was here and went to this
4 property.

5 So ever who did the survey and had the survey
6 done -- My father had the survey done, but ever who
7 did the survey evidently didn't understand why the
8 easement. I still can use that easement because I
9 bought this piece of property here, and the easement
10 runs from about here, thirty foot wide, to down
11 there.

12 And if anybody cares to go out there and look at
13 it -- Mr. Dukes had a survey, and the easement is
14 marked off very clearly.

15 CHAIRMAN AVILA: It is. That is what I was
16 making sure that I had you correct when I -- I was
17 searching for the survey, so I wanted you to clarify
18 it.

19 MR. ADAMS: Yes, sir.

20 CHAIRMAN AVILA: Anything else, Mr. Dukes?

21 MR. ADAMS: Adams.

22 CHAIRMAN AVILA: Or Adams. I'm sorry.

23 MR. ADAMS: Mr. Dukes is sitting over there.

24 CHAIRMAN AVILA: Yeah, this is Mr. Dukes.

25 I was looking at --

1 MR. ADAMS: All I -- All I do is ask the
2 committee to do -- to come -- to come up to the same
3 conclusion to keep this neighborhood preserved the
4 way it is and respect the laws that we have already
5 established in this county because it would really
6 crowd the neighborhood to put a house on this narrow
7 piece of property.

8 And my concern also is safety for this little
9 two-lane road in there.

10 BOARD MEMBER MARTIN: Mr. Chairman, may I?

11 CHAIRMAN AVILA: Yes.


12 BOARD MEMBER MARTIN: Mr. Adams, your parents
13 owned all of this, A, B, and C the picture looks
14 like?

15 MR. ADAMS: No, sir.


16 BOARD MEMBER MARTIN: Okay.

17 MR. ADAMS: Me and my father went in and bought
18 it in 1993. He bought one -- two-thirds of it, and I
19 purchased one-third of it.

20 This purchase A, I purchased it originally,
21 one-third, and my father had the B and C. And when
22 he passed away he split that up, and he gave my
23 brother enough -- Originally there was a trailer on
24 there, and they were pumping raw sewage into the
25 river, and me and my father had it removed.



1 My brother had no interest in staying over
2 there, so he decided to sell it. I made an offer to
3 him. My son made an offer to him. We weren't going
4 to build on it. We had no problems with it.



5 My brother -- There was some conflict. He
6 didn't want me or my son either one to have it, I
7 guess. We made him a fair offer. Mr. Dukes, I
8 think, paid a hundred and five thousand. We made an
9 offer of a hundred thousand.

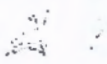
10 He just -- Even after Mr. Dukes was declined the
11 building permit but this committee we still went up
12 to my brother and said, "Hey, we will give you the
13 check." We had the money available. And then
14 wouldn't be here today.

15 BOARD MEMBER MARTIN: So your dad owned where
16 the L shape is, C and B?

17 MR. ADAMS: Yes, sir.

18 BOARD MEMBER MARTIN: And any idea what -- what
19 he was trying to do with it when it was divided --

20 MR. ADAMS: When he divided it... he wanted it
21 -- he wanted to give my brother some river-front
22 property, and we was hoping my brother would come
23 over there and stay in the trailer and put a septic
24 tank down.



25 The well access he had was off of my well and my

1 father's. We got two wells on the property. He had
2 power there.

3 Like I said, there was a trailer there at one
4 time. And when me and my father found out that they
5 were pumping raw sewage in the ground, or in the
6 river -- which I make my living shrimping in the
7 river, so I don't care about somebody polluting the
8 waterway.

9 CHAIRMAN AVILA: Thank you, Mr. Adams.
10 Anything else, Mr. Martin?

11 BOARD MEMBER MARTIN: I don't think so.

12 MR. ADAMS: Thank you.

13 CHAIRMAN AVILA: Thank you, sir.

14 Anyone else to speak against this particular...

15 MS. BOYETTE: I am Katherine Boyette. And I
16 live at 97081 Iris Lane, Yulee.

17 THE CLERK: Raise your right hand.

18 (Ms. Boyette complies.)

19 THE CLERK: Do you swear or affirm the testimony
20 you are about to give tonight is the truth, the whole
21 truth, so help you God?

22 MS. BOYETTE: Yes, I do.

23 THE CLERK: Thank you.

24 MS. BOYETTE: My concern with this is the
25 location of this property right on the ninety degree

1 turn into Belleville.

2 If you have never been to Chester, you are not
3 familiar with how the small our roadways are.

4 Our emergency fire trucks can't get in and
5 around since the county closed the Chester River Road
6 access out onto Roses Bluff Road.

7 So they have to try to manipulate around, and
8 when you come into that ninety degree turn, if you
9 develop and open a driveway there, there is just no
10 way that they can get in and out.

11 It is such a dangerous curve and we have had
12 lots of vehicle problems there because, as Mike said,
13 you have to pull over and allow someone to pass. And
14 just the size of the road is not large enough, as you
15 would imagine, having two lanes.

16 It is probably, maybe twelve, fifteen feet at
17 the most to come out of that driveway. There is no
18 way a fire truck can pull out of there and turn. So
19 I see it is a big hazard in our neighborhood.

20 Thank you.

21 CHAIRMAN AVILA: Thank you, ma'am.

22 Any others to speak against?

23 MR. HARRIS: Gentlemen, ladies.

24 Leonard Ivey Harris. 96759 Chester Road.

25 THE CLERK: Please raise your right hand.

1 (Mr. Harris complies.)

2 THE CLERK: Do you swear or affirm the testimony
3 you are about to give in this matter is true so help
4 you God?

5 MR. HARRIS: Yes, ma'am, I do.

6 Safety is my biggest concern. As you can see on
7 lot C, you can see where the ninety degree curve is.
8 His lot's, what, seventy-three, seventy-five foot
9 wide. From here to here, how wide is this?
10 Thirty-four foot, he said.

11 CHAIRMAN AVILA: Something like -- approximately
12 thirty-five feet.

13 MR. HARRIS: What's a normal driveway, twelve
14 foot wide?

15 VICE CHAIRMAN VAN DELINDER: Ten or twelve feet.

16 CHAIRMAN AVILA: Yeah, ten or twelve.

17 MR. HARRIS: What's that going to leave you on
18 both sides of thirty foot? Nothing.

19 Just like Ms. Boyette and Mr. Adams said, safety
20 concerns. We have six, eight wrecks, bad wrecks,
21 deaths, on this road.

22 What a lot of people don't understand is, this
23 was our family's land. And when our elders give it
24 to our siblings and all, their young'uns... let's
25 just say, "Papa, give me an acre of land." Well,

30'

7

4/17

1 they cut out an acre -- I own land down there that
2 ain't six foot wide... goes behind everybody's
3 houses. I can't do nothing with it.

4 But safety concerns is that curve. It is real
5 bad. You can't get in and out. The ambulances -- we
6 have a lot of old people down in there. They're down
7 there three times a week. It's a mess. You can't
8 get in and out.

9 Thank you, gentlemen.

10 CHAIRMAN AVILA: Thank you, sir

11 Anyone else to speak?

12 MR. BOYETTE: My name is Rep Boyette. I live at
13 97081 Iris Lane.

14 THE CLERK: Raise your right hand.

15 Do you swear or affirm the testimony you are
16 about to give tonight is the truth, the whole truth,
17 so help you God?

18 MR. BOYETTE: Yes.

19 THE CLERK: Thank you.

20 MR. BOYETTE: This gentleman purchased this
21 property fully aware of the circumstances under which
22 he purchased the property, and at the time he was
23 turned down last year. And now we are here again
24 going through this again.

25 I own property down there. And people own

1 property next door to me, two or three acres.

2 What is it that you are doing?

3 Are we setting a precedent here where me and my
4 neighbors could get together and do the same thing
5 you're letting this man do, in case you do that?

6 That's my question. Are we doing that? If so,
7 I would like to know.

8 CHAIRMAN AVILA: Mr. Boyette, the purpose of you
9 speaking is to give us why you're opposed to it.

10 MR. BOYETTE: I am opposed to it because... what
11 I said is exactly what I don't want to see happening
12 in Chester where people say, "Okay, Mr. Dukes did
13 this. We can do now do the same thing."

14 I don't want to see that.

15 CHAIRMAN AVILA: Well, all right.

16 Obviously our attorney is not here, but as far
17 as I understand it, we can't consider previous
18 decisions on previous applications as precedent.

19 MR. BOYETTE: There is a cause and effect to
20 everything in the world.

21 CHAIRMAN AVILA: I understand. I'm just --

22 MR. BOYETTE: That's all I'm saying.

23 CHAIRMAN AVILA: -- explaining to you the
24 procedures that we're bound by.

25 MR. BOYETTE. Okay. I understand that. I